IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 23126 of 2004

Between:

S.M.Investment Vittalvadi, Hyderabad,

rep.by its Anmaiah, S/o.Narsaiah,
R/o.Laxmidevpally Village, Pargi mandal, Ranga Reddy District.

..... PETITIONER

AND

1 The Deputy Commissioner of Prohibition & Excise,

Hyderabad, Hyderabad Division, Nampally, Hyderabad.
2 The Station House officer, Pargi Police Station,

Pargi, Ranga Reddy District.

3 Kolluri Srisailam, S/o Ananthaiah, 20 years, Auto driver, R/o Sultanpur(V), Pargi(M), R.R.District.

4 Anmaiah, S/o Pedda Narsimha, Owner ofAuto, Pargi, R.R.district.

(The third respondent and the fourth respondent were impleaded as per the orders of the Court in W.P.M.P.No.30795 of 2004 dated 23.12.2004 and W.P.M.P.No.31449

of 2004 dated 28.12.2004 respectively)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order, direction more particularly a writ in the nature of writ of Mandamus directing the respondents to release the Auto bearing No. AP 28 V 4447 seized in Crime No. 92/2004 forthwith.

Counsel for the Petitioner:MR.A.RAVI SHANKAR

Counsel for the Respondents 1 and 2: GP FOR PROHIBITION & EXCISE

Counsel for Respondents 3 and 4: None appeared

The Court at the stage of admission made the following ORDER:

Petitioner claims to have financed the purchase of the vehicle bearing No. AP 28V 4447 by the fourth respondent. The said vehicle is said to have been seized by the second respondent on the ground that it was used in transporting the liquor. Proceedings under relevant provisions of the A.P. Excise Act were initiated before the first respondent. The petitioner claims to have made an application before the first respondent for release of the vehicle and states that though several months have elapsed, no orders have been passed thereon.

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition & Excise.

The vehicle is alleged to have been used in transporting the liquor. The truth or otherwise of the allegations against the owner or the user of the vehicle needs to be considered in the proceedings pending before the first respondent. The continued detention of the vehicle does not subserve the purposes either of the Department or of the owner much less the financier. The petitioner claims to have made an application before the first respondent several months back.

Taking the totality of the circumstances into account, the writ petition is disposed of directing that the first respondent shall release the vehicle referred to above to the petitioner, on its furnishing bank guarantee for a sum of Rs.5,000/- (Rupees Five thousand only). It is made clear that the release of the

vehicle in favour of the petitioner shall be without any prejudice to the rights of the fourth respondent. No order as to costs.

28.12.2004

ksld

To

1 The Deputy Commissioner of Prohibition & Excise,

Hyderabad, Hyderabad Division, Nampally, Hyderabad.

2 The Station House officer, Pargi Police Station,

Pargi, Ranga Reddy District.

3 Two CCs to the Government Pleader for Prohibition & Excise, A.P.High Court Buildings, Hyderabad (OUT).

4 Two CD copies.